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ORACLE AMERICA, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.  
Plaintiff,  
v.  
GOOGLE INC.  
Defendant.

Case No. CV 10-03561 WHA

**DECL. OF ANDREW D. SILVERMAN IN  
SUPPORT OF ORACLE'S OPPOSITIONS TO  
GOOGLE'S MOTIONS IN LIMINE NOS. 1-2, 4,  
& 6**

Hearing: April 27, 2016, 8:00 a.m.  
Dept.: Courtroom 8, 19th Floor  
Judge: Honorable William H. Alsup

1 I, Andrew D. Silverman, declare and state as follows:

2 1. I am a member of the bars of the States of California, New York, and the District  
3 of Columbia, admitted to practice before this Court, and an associate with the law firm of Orrick,  
4 Herrington & Sutcliffe LLP (“Orrick”), attorneys of record for plaintiff Oracle America, Inc.  
5 (“Oracle”). I am familiar with the events, pleadings and discovery in this action and, if called  
6 upon as a witness, I could and would testify competently to the matters stated herein of my own  
7 personal knowledge.

8 2. I submit this declaration in support of Oracle’s Oppositions to Google’s Motions  
9 *in Limine* Nos. 1-2, 4, and 6.

10 3. Attached hereto as Exhibit 1 is a true and correct copy of the relevant excerpts of  
11 the Deposition of Chris Kemerer, Ph.D., dated March 3, 2016.

12 4. Attached hereto as Exhibit 2 is a true and correct copy of an email from Reid P.  
13 Mullen to Christine Von der Ahe, dated October 5, 2015.

14 5. Attached hereto as Exhibit 3 is a true and correct copy of the relevant excerpts of  
15 the Expert Report of Douglas C. Schmidt, Ph.D. Regarding Fair Use and Rebuttal to Google’s  
16 Opening Expert Reports, dated February 8, 2016.

17 6. Attached hereto as Exhibit 4 is a true and correct copy of the relevant excerpts of  
18 the Deposition of Owen Astrachan, Ph.D., dated March 14, 2016.

19 7. Attached hereto as Exhibit 5 is a true and correct copy of the relevant excerpts of  
20 an article titled *Standards Competition in the Presence of Digital Conversion Technology*, by  
21 Charles Zhechao Liu, Chris F. Kemerer, Sandra A. Slaughter, and Michael D. Smith, published in  
22 the September 2012 issue of MIS Quarterly, Vol. 36, No. 3, pp. 921-42.

23 8. Attached hereto as Exhibit 6 is a true and correct copy of the relevant excerpts of  
24 the Expert Report of Robert Zeidman, dated January 8, 2016.

25 9. Attached hereto as Exhibit 7 is a true and correct copy of the relevant excerpts of  
26 the Deposition of Robert Zeidman, dated March 16, 2016.

27 10. Attached hereto as Exhibit 8 is a true and correct copy of the relevant excerpts of a  
28 presentation titled “android the center of all your devices,” marked with the Bates range GOOG-

1 00251037–1063, which is filed tentatively under seal pursuant to the protective order.

2 11. Attached hereto as Exhibit 9 is a true and correct copy of the relevant excerpts of  
3 the Opening Expert Report of Roderic G. Cattell, Ph.D., dated January 8, 2016.

4 12. Attached hereto as Exhibit 10 is a true and correct copy of the relevant excerpts of  
5 the Deposition of James Kolotourous, dated January 26, 2016, which is tentatively filed under  
6 seal pursuant to the protective order.

7 13. Attached hereto as Exhibit 11 is a true and correct copy of the relevant excerpts of  
8 the Reply Expert Report of Professor Douglas C. Schmidt, Ph.D., dated February 29, 2016.

9 14. Attached hereto as Exhibit 12 is a true and correct copy of the relevant excerpts of  
10 the Deposition of Joshua Bloch, dated July 8, 2011, which is filed tentatively under seal pursuant  
11 to the protective order.

12 15. Attached hereto as Exhibit 13 is a true and correct copy of the relevant excerpts of  
13 the Deposition of Mark Reinhold, Ph.D., dated March 15, 2016.

14 16. Attached hereto as Exhibit 14 is a true and correct copy of the relevant excerpts of  
15 the opening Expert Report of Prof. Douglas C. Schmidt, dated January 8, 2016.

16 17. Attached hereto as Exhibit 15 is a true and correct copy of an email from Elad Gil  
17 to eng@google.com and product-team@google.com, dated October 27, 2004, and marked with  
18 the Bates range GOOGLE-29-00003710–11, which is filed tentatively under seal pursuant to the  
19 protective order.

20 18. Attached hereto as Exhibit 16 is a true and correct copy of the relevant excerpts of  
21 a presentation titled “GPS Project Android,” dated August 2005, and marked with the Bates range  
22 GOOGLE-26-00008343–8364, which is filed tentatively under seal pursuant to the protective  
23 order.

24 19. Attached hereto as Exhibit 17 is a true and correct copy of the relevant excerpts of  
25 the Deposition of Urs Hoelzle, dated November 24, 2015, which is filed tentatively under seal  
26 subject to the protective order.

1           20.     Attached hereto as Exhibit 18 is a true and correct copy of the relevant excerpts of  
2 the Deposition of Andrew E. Rubin, dated July 27, 2011, which is filed tentatively under seal  
3 subject to the protective order.

4           21.     Attached hereto as Exhibit 19 is a true and correct copy of an email from Andrew  
5 Rubin to Google's Executive Management Group, dated May 7, 2007, and marked with the Bates  
6 number GOOGLE-26-00005730, which is filed tentatively under seal pursuant to the protective  
7 order.

8           22.     Attached hereto as Exhibit 20 is a true and correct copy of the relevant excerpts of  
9 a presentation titled "Alan Eustace Operating Plan," dated August, 2005, marked with the Bates  
10 range GOOGLE-26-00007277-7312, which is filed tentatively under seal pursuant to the  
11 protective order.

12           23.     Attached hereto as Exhibit 21 is a true and correct copy of the relevant excerpts of  
13 a Google presentation titled "Google Mobile Strategy to Win," marked with the Bates range  
14 GOOGLE-30-00101209-1274, which is filed tentatively under seal pursuant to the protective  
15 order.

16           24.     Attached hereto as Exhibit 22 is a true and correct copy of the relevant excerpts of  
17 an email with the subject "2008 Google Product Strategy - internal memo," dated October 3,  
18 2007, and marked with the Bates range GOOGLE-26-00006162-6169, which is filed tentatively  
19 under seal pursuant to the protective order.

20           25.     Attached hereto as Exhibit 23 is a true and correct copy of the relevant excerpts of  
21 an email from Karen Wickre to google\_bod@google.com with the subject "Google Media  
22 Highlights - Week of Nov. 4 - 10, 2007," dated November 10, 2007, and marked with the Bates  
23 range GOOGLE-26-00006275 - 300, which is filed tentatively under seal pursuant to the  
24 protective order.

25           26.     Attached hereto as Exhibit 24 is a true and correct copy of the relevant excerpts of  
26 a Google mobile strategy document, dated 3rd Quarter, 2008, and marked with Bates range  
27 GOOG-00360213-259, which is filed tentatively under seal pursuant to the protective order.  
28

1           27. Attached hereto as Exhibit 25 is a true and correct copy of an email written by Dan  
2 Bornstein with the subject "Re: Classpath exception stuff ...," dated March 30, 2007, and marked  
3 with the Bates number GOOGLE-02-00298859, which is filed tentatively under seal pursuant to  
4 the protective order.

5           28. Attached hereto as Exhibit 26 is a true and correct copy of the relevant excerpts of  
6 a presentation titled "android strategy review," and marked with the Bates range GOOGLE-81-  
7 00007497-7573, which is filed tentatively under seal pursuant to the protective order.

8           29. Attached hereto as Exhibit 27 is a true and correct copy of an email from Tracey  
9 Cole to Andrew Rubin and Jenifer Austin with the subject "RE: Sun Meeting" dated October 11,  
10 2005, and marked with the Bates range GOOGLE-01-00019527-528, which is filed tentatively  
11 under seal pursuant to the protective order.

12           30. Attached hereto as Exhibit 28 is a true and correct copy of the relevant excerpts of  
13 an email from Google Documents to google\_bod@google.com dated October 3, 2007 and marked  
14 with the Bates range GOOGLE-26-00006035-6042, which is tentatively filed under seal pursuant  
15 to the protective order.

16           31. Attached hereto as Exhibit 29 is a true and correct copy of an email from Andrew  
17 Rubin to Dan Bornstein with the subject "Re: What are we doing?," dated April 13, 2006, and  
18 marked with Bates number GOOGLE-02-00111218, which is filed tentatively under seal pursuant  
19 to the protective order.

20           32. Attached hereto as Exhibit 30 is a true and correct copy of an email from Christol  
21 Yves to Rich Miner with the subject "RE: Linux Phone," dated April 5, 2006, and marked with  
22 the Bates range GOOGLE-24-00198827-28, which is filed tentatively under seal pursuant to the  
23 protective order.

24           33. Attached hereto as Exhibit 31 is a true and correct copy of the relevant excerpts of  
25 an email from Rich Miner to Andy Rubin with the subject "Re: Android announce at 3GSM.,"  
26 dated October 23, 2006, and marked with the Bates range GOOGLE-24-00197944-948, which is  
27 filed tentatively under seal pursuant to the protective order.  
28

1           34. Attached hereto as Exhibit 32 is a true and correct copy of relevant excerpts of the  
2 Deposition of Georges Saab, dated December 16, 2015.

3           35. Attached hereto as Exhibit 33 is a true and correct copy of the relevant excerpts of  
4 the Deposition of Michael Ringhofer, dated March 31, 2016.

5           36. Attached hereto as Exhibit 34 is a true and correct copy of an email from Eric  
6 Schmidt to the Google Board of Directors, dated August 5, 2010, and marked with the Bates  
7 range GOOGLE-26-00025769-772, which is filed tentatively under seal pursuant to the  
8 protective order.

9           37. Attached hereto as Exhibit 35 is a true and correct copy of a Sun Microsystems  
10 Strategic Forecast for fiscal years 2008-2010, marked with the Bates number  
11 OAGOOOGLE010016541.

12           38. Attached hereto as Exhibit 36 is a true and correct copy of an email from Daniel  
13 Green to Scott Stillabower with the subject "where I see android - follow-up from EGBU call  
14 today," dated September 14, 2010, and marked with the Bates number OAGOOOGLE0000799926.

15           39. Attached hereto as Exhibit 37 is a true and correct copy of the Deposition of James  
16 R. Kearl, Ph.D., dated March 23, 2016, which is tentatively filed under seal pursuant to the  
17 protective order.

18           40. Attached hereto as Exhibit 38 is a true and correct copy of the relevant excerpts of  
19 the Deposition of Gregory K. Leonard, Ph.D., dated March 11, 2016, which is tentatively filed  
20 under seal pursuant to the protective order.

21           41. Attached hereto as Exhibit 39 is a true and correct copy of the Deposition of James  
22 Malackowski, dated March 17, 2016, which is tentatively filed under seal pursuant to the  
23 protective order.

24           42. Attached hereto as Exhibit 40 is a true and correct copy of the relevant excerpts of  
25 a presentation titled "android Open Handset Platform," marked with the Bates range GOOG-01-  
26 00025576-25587, which is filed tentatively under seal pursuant to the protective order.

27           43. Attached hereto as Exhibit 41 is a true and correct copy of the relevant excerpts of  
28 the Deposition of Douglas Schmidt, Ph.D., dated March 4, 2016.

45. Attached hereto as Exhibit 43 is a true and correct copy of the relevant excerpts of the Stock Purchase Agreement by Google Inc. of Android, Inc., dated June 30, 2005, and previously marked as Trial Exhibit 1004, which is filed tentatively under seal pursuant to the protective order.

I declare under penalty of perjury under the laws of the United States the foregoing is true and correct.

/s/ Andrew D. Silverman

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Andrew D. Silverman